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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/052,814 | 01/23/2002 | Carroll W. Creswell | 003493.00291 | 3188 |
| 22907 | 7590 | 12/08/2004 | EXAMINER | |
| BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001 | | | PEREZ GUTIERREZ, RAFAEL | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2686 | |

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/052,814 | Creswell et al. | |
| | Examiner Rafael Perez-Gutierrez | Art Unit 2686 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 January 2002.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-28 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 12 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4 and 5</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements submitted on January 23, 2002 and March 12, 2002 have been considered by the Examiner and made of record in the application file.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference numbers not mentioned in the description: On figure 3, reference numbers 420 and 460 are not mentioned in the description.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the

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drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office Action. If a response to the present Office Action fails to include proper drawing corrections, corrected drawings or arguments therefor, the response can be held **NON-RESPONSIVE** and/or the application could be **ABANDONED** since the objections/corrections to the drawings are no longer held in abeyance.

Specification

4. The disclosure is objected to because of the following informality: The columns under the headings of **Table 1** in page 9 are shifted to the left from their respective headings. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. **Claims 1, 5-10, 12-14, 16, 17, 19-21, and 23-27** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kung (EP 0 863 678 A2)**.

Consider **claims 1 and 17**, Kung clearly shows and discloses a system and method for automated interactive management of a communication service account, said account having parameters establishing rules of use during which a user device accesses the communication service (abstract), comprising:

a server (figure 2); and

a data storage device (figure 2) in communication with the server, the data storage device comprising account data that comprises the parameters (abstract, figures 1 and 2, column 3 lines 29-51, and column 4 line 13 - column 5 line 11);

wherein the server is configured to receive a customer-initiated signal requesting modification of a first account parameter and to modify and update the first account parameter in response to the customer-initiated signal (figures 1 and 2, column 3 lines 29-51, and column 4 line 13 - column 9 line 19).

Consider **claims 5-8, 19, and 20, and as applied to claims 1 and 17 above**, Kung further shows and discloses that the communication service is long distance telephone service share a cable TV transmission medium, the user device is a telephone, the customer-initiated signal is initiated on the user device or in a PC, and the first account parameter is a number of calling plan minutes (column 3 lines 29-51 and column 7 line 2 - column 9 line 22).

Consider **claims 9, 10, 12-14, 16, 21, 23, and 24-27, and as applied to claims 1 and 17 above**, Kung also shows and discloses wherein the server is further configured to: receive a

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customer-initiated identifying signal identifying the user device, to retrieve the first account parameter in response to the identifying signal, to issue, in response to the identifying signal and for communication to the customer, a response signal comprising at least part of the first account parameter, to identify the type of user device, and to issue the response signal in a form optimized for the user device (figures 1 and 2, column 3 lines 29-51, and column 4 line 13 - column 9 line 19).

7. **Claims 1-4, 9-11, 14, 15, 17, 18, 21, 22, 27, and 28** are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenberg et al. (U.S. Patent # 6,628,934 B2).

Consider **claims 1 and 17**, Rosenberg clearly show and disclose a system and method for automated interactive management of a communication service account, said account having parameters establishing rules of use during which a user device accesses the communication service (abstract), comprising:

a server (figures 1-4); and
a data storage device (figure 2-4) in communication with the server, the data storage device comprising account data that comprises the parameters (abstract, figures 1-4, and column 6 line 1 - column 10 line 65);

wherein the server is configured to receive a customer-initiated signal requesting modification of a first account parameter and to modify and update the first account parameter in response to the customer-initiated signal (column 6 line 1 - column 10 line 65).

Consider **claims 2-4**, and as applied to **claims 1 and 17 above**, Rosenberg et al. further

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show and disclose that the communication service is a wireless telephone service, the user device is a wireless telephone, the customer-initiated signal is initiated on the user device or in a PC, and the first account parameter is a number of calling plan minutes (column 6 line 1 - column 10 line 65).

Consider claims 9-11, 14, 21, 22, 27, and 28, and as applied to claims 1-4 and 17 above, Rosenberg et al. also show and disclose wherein the server is further configured to: receive a customer-initiated identifying signal identifying the user device, to retrieve the first account parameter in response to the identifying signal, to issue, in response to the identifying signal and for communication to the customer, a response signal comprising at least part of the first account parameter, to identify the type of user device, and to issue the response signal in a form optimized for the user device (figures 6-13 and column 6 line 1 - column 10 line 65).

Conclusion

8. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

220 S. 20th St.
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.


Rafael Perez-Gutierrez
R.P.G./rpg RAFAEL PEREZ-GUTIERREZ
PATENT EXAMINER

December 7, 2004